

REMARKS

In response to the restriction requirement mailed on October 17, 2008, the applicant hereby elects claims 25 and 28 identified as invention XI. In the event of allowance of the linking claims, withdrawal of the restriction requirement is respectfully requested.

The applicant respectfully traverses the restriction because at least claims 1-20, 23, and 25-28 share an inventive concept, and examining the claims in a single application would not place an undue burden on the Examiner. In particular, claims 1-20 and 23 are directed to an apparatus or method for receiving tape cassettes and ribbon cassettes in a direction substantially perpendicular to a line of printing elements, and claims 25-28 are directed to a tape cassette having guide members extending in a direction perpendicular to the axis of the tape roll, so as to facilitate lateral insertion into a tape printer. The inventions are not independent because the claimed constructs are so closely related that a search for and examination of elements recited in claims 1-20 and 23 would necessarily encompass a search for elements recited in claims 25-28.

In addition, even if the inventions are considered independent, there is no evidence that a search and examination directed to all claims would be a *serious* burden on the Examiner, as is required by M.P.E.P. §803. (“If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.” and “There must be a serious burden on the examiner if restriction is not required.”) Because search and examination of the entire application can be made without serious burden on the examiner, it would be wasteful of the time, effort, and resources of both the applicants and the Patent Office to prosecute the construct and method claims in separate applications. Search and examination of at least Groups I-VII and IX-XI in a single application would be much more


efficient than requiring the Patent Office to prosecute the claims in separate applications. Accordingly, it is submitted that all claims of at least Groups I-VII and IX-XI should be examined at this time.

Further, although the Office Action argues that the International Search Report dated September 9, 2005 ("the Report") establishes lack of unity of the pending claims *a posteriori*, the applicant cannot determine which features of the cited "X" references are considered to correspond to the elements of the pending claims. In this regard, the Office Action relies solely on the Report and does not identify any specific passages in any of these references. Meanwhile, the Report does not raise an objection with respect to unity of invention. Thus, the applicant submits that the restriction is improper and asks that the restriction at least with respect to claims 1-20, 23, and 25-28 be withdrawn.

This response is being timely filed. However, in the event any additional fees are due, kindly charge the cost thereof to our Deposit Account No. 13-2855 under Order No. 31118/DY0402.

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Respectfully submitted,

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